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SERVICE DATE - DECEMBER 28, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-303 (Sub-No. 25X)

WISCONSIN CENTRAL LTD.—ABANDONMENT EXEMPTION—IN
LANGLADE, MENOMINEE AND SHAWANO COUNTIES, WI

Decided: December 21, 2001

By decision and notice of interim trail use or abandonment (NITU) served on January 5, 2001, the Board granted the petition for exemption filed by Wisconsin Central Ltd. (WCL) for abandonment of a 34.3-mile line of railroad known as the White Lake-Shawano Line, between milepost 280 north of White Lake and milepost 314.3 north of Shawano, in Langlade, Menominee, and Shawano Counties, WI. The exemption was subject to environmental, historic preservation, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period, until July 4, 2001, for the Wisconsin Department of Natural Resources to negotiate an interim trail use/rail banking agreement with WCL. WCL was also required to file a notice of abandonment consummation by January 5, 2002. The decision was scheduled to become effective on February 4, 2001. Subsequently, by decision served on February 2, 2001, the January 5 decision was stayed until further order with respect to the trail use/rail banking in Menominee County that was authorized.¹ In all other respects, the January 5 decision took effect as scheduled on February 4, 2001. In a decision served July 3, 2001, as corrected on July 10, 2001, the negotiating period under the NITU was extended until December 31, 2001, with the stay remaining in effect for the portion of the line in Menominee County.

In a letter filed December 20, 2001, WCL submits that it is close to settling its dispute with the Menominee Indian Tribe of Wisconsin and the Menominee Tribal Enterprises. Such a settlement, WCL asserts, will dispose of the pending court case and allow it to consummate the abandonment on the Menominee Reservation and proceed with the NITU for the remainder of the line. This settlement, however, is awaiting approval from the Bureau of Indian Affairs (BIA). Because BIA's approval has been delayed, WCL requests that the Board extend all current deadlines in this proceeding, such as those pertaining to the NITU (December 31, 2001) and abandonment consummation (January 5, 2002), to February 28, 2002.

¹ A petition for judicial review of the Board's decision allowing interim trail use/rail banking in Menominee County is pending in Menominee Indian Tribe of Wisconsin et al. v. STB et al., No. 01-1100 (D.C. Cir. filed March 2, 2001).

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.² Moreover, under 49 CFR 1152.29(e)(2), a railroad, for good cause, may request an extension of time to file a notice of consummation in abandonment proceedings. Petitioners have shown that the additional time is necessary in both instances to allow BIA to approve the settlement. Accordingly, the NITU negotiating period and the period to exercise abandonment authority will be extended to February 28, 2002.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended until February 28, 2002. However, the stay remains in effect as to the portion of the line in Menominee County.
2. The deadline for consummation of the abandonment and for filing a notice of consummation is extended until February 28, 2002.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

² See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).